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FEB 21 2006

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U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GABRIEL RAMIREZ SANTA CRUZ,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-71936

Agency Nos. A77-374-669

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted February 13, 2006^{**}

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Gabriel Ramirez Santa Cruz, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") decision affirming an immigration judge's denial of his application for cancellation of removal. We

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

dismiss the petition for review.

We lack jurisdiction to review the BIA's discretionary determination that Cruz did not establish good moral character. *See Moran v. Ashcroft*, 395 F.3d 1089, 1091 (9th Cir. 2005) (indicating that a good moral character determination is only reviewable where it falls under or is based upon one of the *per se* statutory exclusions contained in 8 U.S.C. § 1101(f)). We decline to consider whether Cruz established the requisite continuous physical presence because his failure to establish good moral character is dispositive. *See* 8 U.S.C. § 1229b(b)(1); *Romero-Torres v. Ashcroft*, 327 F.3d 887, 889 (9th Cir. 2003) (noting that an applicant must establish continuous physical presence, good moral character, and hardship to qualify for relief).

PETITION FOR REVIEW DISMISSED